

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of PEDRO CORONADO, Minor.

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DEPARTMENT OF HUMAN SERVICES, f/k/a  
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED  
October 25, 2005

Petitioner-Appellee,

v

KEITH W. OSTIC,

Respondent-Appellant.

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No. 261662  
St. Clair Circuit Court  
Family Division  
LC No. 04-000181

Before: Gage, P.J., and Hoekstra and Murray, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's March 21, 2005 order terminating his parental rights to the minor child pursuant to MCL 712A.19b(3)(a)(ii), (c)(i) and (g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

After the minor child was born with half a brain, his mother refused to take him home from the hospital. An amended petition was filed against the mother that listed respondent as the putative father. The mother subsequently released her parental rights. Since respondent was not yet the legal father and was also incarcerated at the time of adjudication (with a release date at the time of trial of December, 2005), the child was made a temporary ward of the court. Respondent later participated in a paternity test, which established that he was the child's biological father. However, throughout the pendency of the case, respondent never filed an affidavit of parentage or took other steps to be named the child's legal father. His discharge date was also delayed for approximately two months for reasons that are unclear from the record.

The trial court did not clearly err in finding that the statutory grounds for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Ramsey*, 229 Mich App 310, 314; 581 NW2d 291 (1998). Respondent argues that he willingly submitted to a paternity test and expressed his desire to parent the child but was unable to seek custody of the child until after his release from prison. However, a parent's stated desire to plan for a child does not constitute "seeking custody" when the parent fails to attend court hearings or otherwise plan for the child. *In re Mayfield*, 198 Mich App 226, 228-230; 497 NW2d 578 (1993).

In this case, respondent's failure to establish his legal paternity or further communicate his interest in the child to the foster care worker provided sufficient evidence for the court to find that he deserted the child within the meaning of MCL 712A.19b(3)(a)(ii). Further, the adjudicating conditions of respondent's incarceration and lack of legal parentage still continued to exist at the time of the termination trial. Given respondent's delayed discharge date and inability thus far to establish his legal parentage, there was no reasonable likelihood that the adjudicating conditions would be rectified within a reasonable time considering the age of the child and the fact that he was not expected to live much longer than one year. MCL 712A.19b(3)(c)(i). Similarly, respondent's lack of efforts to communicate with the foster care worker after being identified as the child's biological father called into question respondent's commitment to undertake the care of a very medically-challenged young child. As such, the trial court correctly based termination upon MCL 712A.19b(3)(g), and also correctly held that termination was not contrary to the child's best interests.

Affirmed.

/s/ Hilda R. Gage  
/s/ Joel P. Hoekstra  
/s/ Christopher M. Murray